



US Army Corps
of Engineers
Portland District

Public Notice

Proposal to Authorize Certain Activities under the Letter of Permission Procedures

For additional information contact:
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Issue Date: November 3, 2008
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Corps of Engineers Action ID: NWP-2008-00671

U.S. Army Corps of Engineers (Corps) regulations at 33 CFR 325.2(e)(1)(i) allow the use of an abbreviated processing procedure, called a Letter of Permission (LOP), in cases subject to Section 10 of the Rivers and Harbors Act of 1899 when the proposed work would be minor, would not have significant individual or cumulative impacts on environmental values, and should encounter no appreciable opposition. The abbreviated procedure includes coordination with federal and state fish and wildlife agencies (as required by the Fish and Wildlife Coordination Act) and a public interest evaluation, but does not include the publishing of an individual public notice.

ACTIVITIES PROPOSED FOR AUTHORIZATION BY THE LOP PROCESS

The Portland District Corps proposes to authorize by LOP the following types of activities occurring in navigable waters within the state of Oregon:

1) **Maintenance Dredging Activities:** Annual maintenance dredging of existing facilities (including but not limited to marinas, docks, boat basins, and boat ramps) or tidally influenced drainage ditches subject to the following requirements:

a) Dredging is accomplished by clamshell or other mechanical means so that excavation does not result in more than an incidental discharge into waters of the United States (U.S.). Disposal of dredged material must occur in a contained upland facility with no return flows to waters of the U.S.

b) The project is not located in a Superfund site and sediments are not a high risk for carrying contaminants.

c) All projects will be evaluated according to the requirements of the Portland District Sediment Evaluation Framework process.

d) Dredging does not occur below previously authorized depths or in areas where dredging has not occurred before.

2) **Piling:** Installation of new piling, including mooring dolphins. Removal of existing piling can also be covered by LOP provided the project does not involve the placement of fill material in the holes left by the piling.

Removal of large woody material embedded in the substrate of a navigable waterway requires a Department of the Army permit and may be authorized by LOP provided the removal method results in no more than incidental fallback of sediments. Removal of large woody material lying free on the bottom of a navigable waterway does not require a Department of the Army permit.

3) Small Boat Docks: Residential or public boat docks and transient moorage structures including attendant features (such as wave attenuators and access ramps) subject to the following requirements:

a) The total deck area of a single use dock does not exceed 500 square feet. The total deck area of a joint use dock does not exceed 1,100 square feet. The area of the access ramp is not included in the total deck area.

b) Concrete footings used to support piling are pre-cast not poured in place.

4) Temporary Structures: Temporary work barges, floating docks, etc that will remain in one location for more than 30 days but where the intent is to remove the structure once the construction activity or special event is completed.

Note: the Portland District has determined that temporary structures remaining in one location for less than 30 days do not require a Department of the Army permit.

5) Permanently Moored Floating Vessels: Includes vessels whose historical use was for transportation but which are now put to a non-navigable use (such as ferry's or steamships converted to a museum or restaurant, barges used as a tie-off for a vessel, etc.).

LOP PROCEDURES

Notification of each individual action proposed for authorization by LOP will be provided to state and federal regulatory and resource agencies, adjoining property owners, and Native American Tribes. The notification will include a complete description of the proposed project including location, project drawings, and Project Manager contact information. The method of notification and timelines for submitting comments are described below.

Agency Notification: Portland District Regulatory Project Managers will send electronic notification of projects proposed for authorization by LOP to the state and federal agencies identified on the attached contact list. (The final agency point of contact may not be the same as identified on this current list.) The agencies will have 10 calendar days to respond to the Project Manager by email or letter with any objections to the issuance of a permit for the proposed action.

Adjoining Property Owners: Adjoining property owners will be notified electronically if that information is known. If notification is made electronically, the adjoining property owner will have 10 calendar days to provide comments. Absent electronic mail information, notifications will be sent by regular mail. If notification is made by regular mail, adjoining property owners will have 15 calendar days from the date of the transmittal letter to respond with comments.

Coordination with Native American Tribes: Notification will be made electronically to the appropriate Tribal contact. The Tribes will have 30 calendar days to respond to the Project Manager indicating whether the proposed project would impact such things as cultural resources, treaty fishing access sites, usual and accustomed areas, burial sites, or Traditional Cultural Properties.

NEPA Documentation: Appendix B to 33 CFR Part 325 lists Federal actions categorically excluded from NEPA documentation; included in this list are all applications qualifying as letters of permission. Although LOPs generally do not require the preparation of an Environmental Assessment or Environmental Impact Statement, Corps Project Managers will complete an abbreviated decision document which describes how each authorized action procedurally and substantively complies with other Federal laws and regulations. The decision document will also discuss any comments received during the notification process for individual actions and how these comments have been addressed. This decision document will be kept in the individual project file along with other pertinent project specific information.

COASTAL ZONE MANAGEMENT ACT

The Corps is requesting the Oregon Department of Land Conservation and Development concur those activities described above which may affect land or water uses in the Coastal Zone will be in compliance with the State Coastal Zone Management Program, as required by Section 307(c) of the Coastal Zone Management Act of 1972, as amended by 16 USC 1456(c)(3). Attached to this Public Notice is a notice of application for Certification of Consistency with the State's Coastal Zone Management Program.

ENDANGERED SPECIES

Each individual action proposed for authorization by LOP will be required to comply with the Endangered Species Act. If it is determined an individual action may affect a listed species, compliance may be through use of existing programmatic biological opinions or project specific consultation with the National Marine Fisheries Service or U.S. Fish and Wildlife Service as appropriate.

CULTURAL RESOURCES

Individual projects proposed for authorization by LOP will be reviewed to determine whether those activities may be located on property registered or eligible for registration in the latest published version of the National Register of Historic Places. Notification will be sent to the State Historic Preservation Office (SHPO) and to Native American Tribes who have an interest in the area in which the proposed action would occur. If information is received from the SHPO, Tribes or other interested parties indicating the site of the proposed action may affect human burials, cultural resources and/or historic properties (as identified by the Federal historic preservation laws), the Corps will take necessary actions to comply with Federal cultural resources and historic preservation laws and regulations.

WATER QUALITY CERTIFICATION

The activities proposed for authorization by LOP are considered by the Corps to be regulated under Section 10 of the Rivers and Harbors Act of 1899 only and do not involve a discharge of dredged or fill material into waters of the U.S. Water quality certification under Section 401 of the Clean Water Act is therefore not required.

EVALUATION

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Native American Tribes; and other interested parties in order to consider and evaluate the impacts of the proposal to authorize certain activities by LOP procedures. Any comments received will be considered by the Corps of Engineers in making its final decision. Comments will be considered in the preparation of an Environmental Assessment pursuant to the National Environmental Policy Act. Comments will also be used to determine the need for a public hearing and to determine the overall public interest of the proposed activities. All factors, which may be relevant to the described activities will be considered including the cumulative effects thereof; among those are conservation, economics,

aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people.

PUBLIC HEARING

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposal. Requests for a public hearing shall specifically state the reasons for holding the hearing. The Corps holds public hearings for the purpose of obtaining public comments, when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

COMMENTS

Comments on the proposed LOP activities and procedures should reference the U.S. Army Corps of Engineers number shown above and should reach this office no later than the expiration date of this Public Notice to become part of the record and to be considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers, Portland District
ATTN: CENWP-OP-G (Judy Linton)
P.O. Box 2946
Portland, Oregon 97208-2946

Comments may also be sent by email to: judy.l.linton@usace.army.mil.

PUBLIC NOTICE

OREGON COASTAL MANAGEMENT PROGRAM

CONSISTENCY CERTIFICATION

Date: November 3, 2008

Corps of Engineers Action ID Number: NWP-2008-00671

Oregon Department of State Lands Number: N/A

Notification

For projects subject to coastal zone review, notice is hereby given that the project is being reviewed by the Department of Land Conservation and Development (DLCD) as provided in Section 307(c) of the Coastal Zone Management Act. The applicant believes that the activities described in the attached materials would comply with and be conducted in a manner consistent with the Oregon Coastal Management Program. Project information can be made available for inspection at DLCD's Salem office.

DLCD is hereby soliciting public comments on the proposed project's consistency with the Oregon Coastal Management Program. Written comments may be submitted to DLCD, 635 Capital St. NE, Suite 200, Salem, OR 97301-2540, attention consistency review specialist. Any comments must be received by DLCD on or before the comment deadline listed in the federal notice. For further information, you may call DLCD at (503) 373-0050, ext. 250.

REVIEW CRITERIA

Comments should address consistency with the applicable elements of the Oregon Coastal Management Program. These elements include:

- § Acknowledged Local Comprehensive Plans & Implementing Ordinances
- § Statewide Planning Goals
- § Applicable State Authorities (e.g. Removal-Fill Law and Oregon Water Quality Standards)

INCONSISTENT?

If you believe this project is inconsistent with the Oregon Coastal Management Program, your comments to DLCD should explain why you believe the project is inconsistent and should identify the Oregon Coastal Management Program element(s) in question. You should also describe how the project could be modified, if possible, to make it consistent with the Oregon Coastal Management Program.

Letter of Permission Agency Contact List:

MS. YVONNE VALLETTE
ENVIRONMENTAL PROTECTION AGENCY
OREGON OPERATIONS OFFICE
805 SW BROADWAY, SUITE 500
PORTLAND, OREGON 97205-3331
Vallette.yvonne@epa.gov
503-326-2716

MR. KIM KRATZ
NATIONAL MARINE FISHERIES SERVICE
HABITAT CONSERVATION DIVISION
1201 NE LLOYD BOULEVARD, SUITE 1100
PORTLAND, OREGON 97232
Kim.Kratz@noaa.gov
503-231-2155

MR. MONTY KNUDSEN
MRS. MIEL CORBETT
US FISH AND WILDLIFE SERVICE
PORTLAND FIELD OFFICE
2600 SE 98TH AVENUE, SUITE 100
PORTLAND, OREGON 97266
Monty_Knudsen@fws.gov
Miel_Corbett@fws.gov
503-231-6179

MR. KEVIN MOYNAHAN
OREGON DEPARTMENT OF STATE LANDS
775 SUMMER STREET NE
SALEM, OREGON 97310-1279
Kevin.Moynahan@dsl.state.or.us
503-986-5259

MR. DENNIS GRIFFIN
OREGON STATE HISTORIC PRESERVATION OFFICE
1115 COMMERCIAL STREET NE, SUITE 2
SALEM, OREGON 97302-1012
Dennis.Griffin@state.or.us
503-986-0674

MS. COREY SAXON
OREGON DEPT. OF ENVIRONMENTAL
QUALITY
2020 SW FORTH AVENUE
PORTLAND, OREGON 97201
Saxon.Corey@deq.state.or.us
503-229-5051

MS. PATTY SNOW
OREGON DEPARTMENT OF FISH & WILDLIFE
3406 CHERRY AVENUE
SALEM, OREGON 97303
Patty.snow@state.or.us
503-947-6089

MR. TONY STEIN/CALUM STEVENSON/
JAN HOUCK
OREGON PARKS & RECREATION DEPT.
1115 COMMERCIAL STREET NE
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Tony.stein@state.or.us
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Jan.houck@state.or.us
503-986-0663

MR. JAY CHARLAND
OREGON DEPARTMENT OF LAND
CONSERVATION AND DEVELOPMENT
635 CAPITAL STREET NE, SUITE 150
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Jay.charland@state.or.us
503-373-0050 ext 253

MR. DOUGLAS BAER
OREGON STATE MARINE BOARD
435 COMMERCIAL STREET NE, NO 500
SALEM, OREGON 97310-3414
Douglas.baer@state.or.us
503-378-2603

MR. AUSTIN PRATT (only bridges and
piers)
THIRTEENTH COAST GUARD DISTRICT
915 SECOND AVENUE ROOM 3510
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